

REMARKS

Phone Interview

Applicant would like to thank the Examiner for the phone interview of June 11, 2008 (1:00 pm Central) to discuss the remaining issues in this case by phone in order to arrive at allowable subject matter. The Examiner indicated that an amendment limiting the “mPE” to being a “LLDPE” (similar to current claim 26) in claims 23 and 24 might be allowable. In the alternative, the Examiner indicated that an amendment to describe the “mPE” as being “prepared from ethylene and at least one C₃ to C₁₂ alpha-olefin monomer” in claims 23 and 24 might be allowable.

The two independent claims 23 and 24 are amended to take both embodiments into account.

Disposition of the Claims

Claims 23-49 are pending. Independent claim 23 is amended by adding the phrase “wherein the mPE is a mLLDPE” to further describe the “mPE;” and claim 24 is amended by modifying the “mPE” of the skin layer to be “prepared from ethylene and at least one C₃ to C₁₂ alpha-olefin monomer;” the description for both phrases derives from the specification as filed at page 9, paragraph [0038]. No new matter is added.

New claim 50 derives from paragraph [0038] as well. No new matter is added.

Section 103 Rejection

Claims 23-49 stand rejected under 35 U.S.C. § 103(a) as obvious over *Agouri* in view of *Lind*. Applicants wish to traverse. In particular, the Applicant contends that there is no disclosure of an “mPE” or a multi-layer film (that is not “less than 20 microns”) in *Agouri*. However, at this time the Applicant chooses to pursue certain embodiment(s) of their invention, as the claims are amended, without prejudice to the originally claimed embodiment(s).

With respect to the amended claims, the Applicant contends the following:

- **Problem being solved in Agouri:** It is known that LDPE is not adapted for use in producing films for sheaths because it is too soft and does not exhibit rustling property. (Col. 1, lines 35-41).
- **Solution in Agouri:** Prepare a film of less than 20 micron thickness made from styrene-grafted LDPE. (Col. 1, lines 62-66).
- **Point of Law:** Examiner must articulate a motivation why someone skilled in the art would combine the elements in the fashion claimed. *KSR v. Teleflex*, 127 S.Ct. 1727, 1731 (2007).
- **Applicant's Traversal:** One skilled in the art would not be motivated to combine the teaching in *Agouri* (styrene-grafted LDPE) with *Lind* to arrive at a three-layer film of claims 23 and 24 (comprising LLDPE and styrene-free mPE, respectively). All the elements of present claims 23 and 24 are not disclosed in the combination of *Agouri* and *Lind*;
 - *Agouri* does not disclose the use of a styrene-free mPE or a mLLDPE;
 - *Agouri* teaches away from using styrene-free polymers ("rustling" characteristic, see col. 5, lines 31-36, Table III);
 - Changing the styrene-LDPE of *Agouri* to the claimed mPE would render the invention in *Agouri* unsatisfactory for its intended use ("rustling" characteristic, see col. 5, lines 31-36, Table III); and
 - A core layer of LDPE/HDPE is not disclosed in *Lind*; *Agouri* does not alleviate this.

Applicant thus requests the withdrawal of this rejection.

If there are any suggestions or questions regarding this amendment, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the

Application No.: 10/803,318
Attorney Docket No.: 2003B101A
Response dated June 13, 2008
Reply to Office Action dated April 15, 2008

application. If necessary, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response. Please charge any deficiency in fees or credit any overpayments to Deposit Account No. 05-1712 (Docket #2003B101A-US).

Respectfully submitted,

Date: June 13, 2008

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